

REMARKS

By this Amendment, Applicants cancel claims 2 and 8 without prejudice or disclaimer of the subject matter thereof, and amend claims 1, 3, 4, 5, 9, and 10. Claims 1, 3-7, 9, and 10 are currently pending.

In the Office Action, the Examiner rejected claims 1-10 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,101,574 to Kumasawa et al. (hereinafter "Kumasawa") in view of U.S. Patent No. 6,289,389 B1 to Kikinis (hereinafter "Kikinis").

Applicants appreciate the Examiner's thorough examination of this application, especially the detailed citations which aided Applicants in reviewing the Examiner's comments. Nevertheless, Applicants respectfully traverse the rejections for the following reasons.

Regarding Claim Rejections under 35 U.S.C. § 103(a)

In order to establish a prima facie case of obviousness, three basic criteria must be met. First, the prior art reference (or references when combined) must teach or suggest all the claim elements. Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Third, there must be a reasonable expectation of success. See M.P.E.P. § 2143.

Claims 1 and 5, as amended, call for combinations including, for example, "second interface control means for performing information communication with the counterpart system through said second communication path independently of said main control means in accordance with an instruction from said main control means in its system, wherein the information communication by the second interface control means is performed without using the internal bus." Kumasawa fails to teach or

suggest “second interface control means for performing information communication with the counterpart system through said second communication path independently of said main control means in accordance with an instruction from said main control means in its system, wherein the information communication by the second interface control means is performed without using the internal bus,” as required by amended claims 1 and 5.

Kumasawa teaches a disk control unit for writing and reading data to and from at least one disk device. Kumasawa, abstract. When two disk control units are used in Kumasawa, “[i]nternal buses 35-1 and 35-2 of the disk control units 12-1 and 12-2 are connected through a bridge circuit 144, so that instructions and data can be transmitted and received between MPUs 20-1 and 20-2.” Kumasawa, FIG. 2, column 7, 24-26. As such, in Kumasawa, the information is transmitted and received between the internal buses, albeit the internal buses may be connected by a bridge, and such information communication involves MPUs as the end points. Thus, Kumasawa fails to teach or suggest at least “performing information communication . . . independently of said main control means . . . ,” and “the information communication . . . is performed without using the internal bus.” Furthermore, Kumasawa fails to teach a “second communication path” at all.¹ Therefore, Kumasawa fails to teach or suggest “second interface control means for performing information communication with the counterpart system through said second communication path independently of said main control means in accordance with an instruction from said main control means in its system, wherein the

¹ The Examiner recognizes this by stating “However Kumasawa et al., fails to disclose that the first communication path . . . ; and the second communication path” (Office Action, p. 3)

information communication by the second interface control means is performed without using the internal bus,” as required by amended claims 1 and 5.

Kikinis fails to cure Kumasawa's deficiencies. Kikinis teaches an internet data delivery system having a land-based data link and a satellite-based data link, and at the time of data transmission, the delivery system determines whether “the land-based path or the satellite path will be faster for that size of packet at that particular time.” Kikinis, abstract; column 6, lines 10-30. “If it is determined that the land-base path is faster, then the data packet is sent to the user via [the land-based path].” “If, however, it is determined that the satellite path would be faster, then the data packet is sent to up-link server 31 via [the satellite path].” Kikinis, column 6, lines 22-32. However, such teaching or suggestion does not constitute a teaching or suggestion of “performing information communication . . . independently of said main control means . . . ,” or “the information communication . . . is performed without using the internal bus.” Therefore, Kikinis, as well, fails to teach or suggest at least “second interface control means for performing information communication with the counterpart system through said second communication path independently of said main control means in accordance with an instruction from said main control means in its system, wherein the information communication by the second interface control means is performed without using the internal bus,” as required by amended claims 1 and 5.

Therefore, neither Kumasawa nor Kikinis, taken alone or in any reasonable combination, teaches or suggests all elements of Applicants' invention as recited in amended claims 1 and 5. Applicants respectfully submit that a prima facie case of obviousness regarding amended claims 1 and 5 has not been established. Applicants

therefore request the withdrawal of the rejection of claims 1 and 5. Furthermore, since claims 3 and 4 depend on claim 1, and claims 6, 7, 9, and 10 depend on claim 5, at least for the same reasons stated above, Applicants further respectfully request the withdrawal of the rejection of claims 3, 4, 6, 7, 9 and 10.

Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 4, 2004

By: 

Richard V. Burgujian
Reg. No. 31,744